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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,511	09/22/2003	Douglas A. Beigel	25758	5823

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EXAMINER
UTAMA, ROBERT J

ART UNIT	PAPER NUMBER
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	**Applicant(s)**
	10/665,511	BEIGEL, DOUGLAS A.
Office Action Summary	**Examiner**	**Art Unit**	
	Robert J. Utama	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*09/22/2003*</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>*22 September 2003*</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1-7 rejected under 35 U.S.C. 102(b) as being anticipated by Lee US**

5,788,508 (hereinafter Lee '508).

Claim 1: Lee discloses a database which comprises of evaluation question and

assessment question of various subjects (Lee '508 7:4-10 and col.1:24-34). Lee '508

also discloses an function in the system for an instructor to pick and choose material

to be included (or excluded) in the evaluation and assessment part of the lesson (Lee

'508 col. 9:60-65 and FIG. 11). These evaluation and assessment question are

combined can be combined to form an assessment course (Lee '508 col. 10:24-29 and

FIG. 16). Lee also discloses a server with a database in a telecommunication network

(LAN) that causes a GUI (courseware) to be displayed to network access device to the

server (Lee '508 col:4:37-48). The GUI presented at least presents a plurality of

assessment courses (Lee '508 col.5: 49-55), receive response from the user to the

plurality of assessment and evaluation question (col.5:5-15).

Claim 2 and 3: Lee discloses that the each assessment or evaluation question have

different minimum score in order to be considered to be able to pass (col.10:1-4).

Claim 4 and 5: Lee '508 discloses that each response in the quiz or test are calculated

and turn into scores (or grade) [Lee '508 col.7:9-16].

Claim 6 and 7: Lee '508 discloses that each quiz or test have its own threshold score

that in order to be considered as passing (col:10:1-4).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by
> the manner in which the invention was made.

4.   **Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Lee US**

5,788,508 (hereinafter Lee '508), and further in view of Ho et al US 5,944,530

(hereinafter Ho '530).

Claim 8: Lee '508 fails to teach the limitation of having the network being at least

portion of global public internet.

Ho '530 teaches that the network of the computer-based-training to be part of the

global internet. Therefore, it would have been obvious to one of ordinary skilled in the

art to use the internet as the network to the system of Lee '503. One of ordinary

skilled in the art would have been motivated to make this combination since it would

enable people to take part in the training from anywhere in the world.

5.   **Claim 9-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Lee**

US 5,788,508 (hereinafter Lee '508), and further in view of Samph et al US

5,195,053 (hereinafter 'Samph '033)

Claim 9 and 15: Lee '508 fails to disclose a system that allows the user to respond using "Yes" and "No". However, Samph '033 discloses a method of allowing the user to respond with "Yes" and "No" (Samph '033 FIG 6D and col.17:45-55). Therefore, it would have been obvious to one of ordinary skilled in the art to "Yes" and "No" as a method to respond to the assessment question posed by the system of Lee '503. One of ordinary skilled in the art would have been motivated to make this combination since it would create a simple assessment test that is appropriate for all level of cognitive skill.

Claim 11: Lee discloses a database which comprises of evaluation question and assessment question of various subjects (Lee '508 7:4-10 and col.1:24-34). Lee '508 also discloses an function in the system for an instructor to pick and choose material to be included (or excluded) in the evaluation and assessment part of the lesson (Lee '508 col. 9:60-65 and FIG. 11). These evaluation and assessment question are combined can be combined to form an assessment course (Lee '508 col. 10:24-29 and FIG. 16). Lee also discloses a server with a database in a telecommunication network (LAN) that causes a GUI (courseware) to be displayed to network access device to the server (Lee '508 col:4:37-48). The GUI presented at least presents a plurality of assessment courses (Lee '508 col.5: 49-55), receive response from the user to the plurality of assessment and evaluation question (col.5:5-15).

Lee '508 fails to disclose that the user would be able to receive a certification from the assessment course. However, Samph '033 teaches of a testing system which presents a certification (or license) for a successful completion of an assessment course (Samph '033 col:25:53-62). Therefore, it would have been obvious to one of ordinary skilled in the art to combine the teaching of presenting a certification as taught by Samph '033

to the system of Lee '503. One of ordinary skilled in the art would have been motivated to make this combination since it would enable people to maintain their qualification requirement (Samph '033 col.1:40-44).

Claim 12: Lee discloses that the each quiz or test to have different minimum score in order to be considered to be able to pass (Lee '508 col.10:1-4).

Claim 13: Lee '508 discloses that each response in the quiz or test are calculated and turn into scores (or grade) [Lee '508 col.7:9-16]. These score are tabulated and can be compared to the minimum score requirement in order to determine that the user have pass the exam or quiz (Lee '508 col.10:1-4).

Claim 14: Lee '508 fails to teach that the user will be presented a certification should both the determination step is positive.

Samph '033 teaches of a testing system which comprised of screening question and the actual exam (Samph '033 col.1:25-35) and in order for the user to be presented to the user they will need to pass the screening question and the exam (Samph '033 col.3:40-45). Therefore, it would have been obvious to one of ordinary skilled in the art to combine the teaching of presenting a certification as taught by Samph '033 to the system of Lee '503. One of ordinary skilled in the art would have been motivated to make this combination since it would enable people to maintain their qualification requirement (Samph '033 col.1:40-44).

Claim 10 and 18: Lee '508 describe that the user respond to the assessment by manually entering the answer on the keyboard. Furthermore, Lee '508 and Samph '033 fails to disclose a system that allows the user to respond using "Yes", "No" and "Not Applicable".

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use "Yes", "No" and "Not Applicable" in the system of Lee '508 because Applicant has not disclosed that using "Yes", "No" and "Not Applicable" as a user response provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected manually entering the answer on the keyboard, and applicant's invention, to perform equally well with either using would perform the same function of allowing the user to respond to the assessment question.

Therefore, it would have been prima facie obvious to modify Lee '508 to obtain the invention as specified in claim 15 and 18 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Lee '508.

Claim 16 and 19: Lee '508 discloses that each response in the quiz or test are calculated and turn into scores (or grade) [Lee '508 col.7:9-16]. The examiner takes the position that each response is given an equal weight during the conversion to the grade.

Claim 17 and 20: Lee '508 describes a remedial program (deficiency macro), which explains the material when the user gives incorrect answer during the assessment and/or evaluation (Lee '508 Col. 7:25-40).

Claim 22: Lee '508 discloses a computer program and system which comprises of evaluation question (i.e: homework) and assessment question (i.e.:test) (Lee '508 7:4-10 and col.1:24-34). Lee also discloses a server with a database in a telecommunication network (LAN) that causes a GUI (courseware) to be displayed to network access device to the server (Lee '508 col.4:37-48). The GUI presented at least

presents a plurality of assessment courses (Lee '508 col.5: 49-55), receive response from the user to the plurality of assessment and evaluation question (col.5:5-15). Lee '508 fails to disclose that the user would be able to receive a certification from the assessment course. However, Samph '033 teaches of a testing system which presents a certification (or license) for a successful completion of an assessment course (Samph '033 col:25:53-62). Therefore, it would have been obvious to one of ordinary skilled in the art to combine the teaching of presenting a certification as taught by Samph '033 to the system of Lee '503. One of ordinary skilled in the art would have been motivated to make this combination since it would enable people to maintain their qualification requirement (Samph '033 col.1:40-44).

Claim 23: Lee '508 discloses that computer program in which each quiz or test to have different minimum score in order to be considered to be able to pass (Lee '508 col.10:1-4).

Claim 24: The computer program in Lee '508 discloses that each response in the quiz or test are calculated and turn into scores (or grade) [Lee '508 col.7:9-16]. These score are tabulated and can be compared to the minimum score requirement in order to determine that the user have pass the exam or quiz (Lee '508 col.10:1-4).

6.   **Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Lee US 5,788,508 (hereinafter Lee '508), in view of Samph et al US 5,195,033 (hereinafter 'Samph '033) and further in view of Ho et al US 5,944,530 (hereinafter Ho '530).**

Claim 21: Lee '508 fails to teach the limitation of having the network being at least portion of global public internet. Furthermore, the combination of Lee and Samph fails to rectify this deficiency

Ho '530 teaches that the network of the computer-based-training to be part of the global internet. Therefore, it would have been obvious to one of ordinary skilled in the art to use the internet as the network to the system of Lee '503. One of ordinary skilled in the art would have been motivated to make this combination since it would enable people to take part in the training from anywhere in the world.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hollingsworth 6,157,808

- Brush et al 4.867,685

- Doty et al 2003/0152904

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU

KATHLEEN MOSSER
PRIMARY EXAMINER